

# S. 1324

**Referred jointly to the Permanent Select Committee on Intelligence and the  
Committee on Government Operations**

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the “Intelligence Information  
4       Act of 1983”.

6 SEC. 2. (a) The Congress finds that—

7 (1) the Freedom of Information Act is providing  
8 the people of the United States with an important

1 means of acquiring information concerning the workings and  
2 decisionmaking processes of their Government, including the  
3 Central Intelligence Agency;

4 (2) the full application of the Freedom of Informa-  
5 tion Act to the Central Intelligence Agency is, howev-  
6 er, imposing unique and serious burdens on this  
7 Agency;

8 (3) the processing of a Freedom of Information  
9 Act request by the Central Intelligence Agency nor-  
10 mally requires the search of numerous systems of  
11 records for information responsive to the request;

12 (4) the review of responsive information located in  
13 operational files which concerns sources and methods  
14 utilized in intelligence operations can only be accom-  
15 plished by senior intelligence officers having the neces-  
16 sary operational training and expertise;

17 (5) the Central Intelligence Agency must fully  
18 process all requests for information, even when the re-  
19 quester seeks information which clearly cannot be re-  
20 leased for reasons of national security;

21 (6) release of information out of operational files  
22 risks the compromise of intelligence sources and  
23 methods;

24 (7) eight years of experience under the amended  
25 Freedom of Information Act has demonstrated that this

1 time-consuming and burdensome search and review of  
2 operational files has resulted in the proper withholding  
3 of information contained in such files, and, therefore,  
4 the Central Intelligence Agency should no longer be  
5 required to expend valuable manpower and other re-  
6 sources in the search and review of information in  
7 these files;

8 (8) the full application of the Freedom of Informa-  
9 tion Act to the Central Intelligence Agency is per-  
10 ceived by those who cooperate with the United States  
11 Government as constituting a means by which their co-  
12 operation and the information they provide may be  
13 disclosed;

14 (9) information concerning the means by which in-  
15 telligence is gathered generally is not necessary for  
16 public debate on the defense and foreign policies of the  
17 United States, but information gathered by the Central  
18 Intelligence Agency should remain accessible to re-  
19 questers, subject to existing exemptions under law;

20 (10) the organization of Central Intelligence  
21 Agency records allows the exclusion of operational files  
22 from the search and review requirements of the Free-  
23 dom of Information Act while leaving files containing  
24 information gathered through intelligence operations

1 accessible to requesters, subject to existing exemptions  
2 under law; and

3 (11) the full application of the Freedom of Infor-  
4 mation Act to the Central Intelligence Agency results  
5 in inordinate delays and the inability of the Agency to  
6 respond to requests for information in a timely fashion.

7 (b) The purposes of this Act are—

8 (1) to protect the ability of the public to request  
9 information from the Central Intelligence Agency  
10 under the Freedom of Information Act to the extent  
11 that such requests do not require the search and  
12 review of operational files;

13 (2) to protect the right of individual United States  
14 citizens and permanent resident aliens to request infor-  
15 mation on themselves contained in all categories of  
16 files of the Central Intelligence Agency; and

17 (3) to provide relief to the Central Intelligence  
18 Agency from the burdens of searching and reviewing  
19 operational files, so as to improve protection for intelli-  
20 gence sources and methods and enable this Agency to  
21 respond to the requests of the public for information in  
22 a more timely and efficient manner.

23 SEC. 3. (a) The National Security Act of 1947 is  
24 amended by adding at the end thereof the following new title:

1 "TITLE VII—RELEASE OF REQUESTED INFORMA-  
2 TION TO THE PUBLIC BY THE CENTRAL IN-  
3 TELLIGENCE AGENCY

4 "DESIGNATION OF FILES BY THE DIRECTOR OF CENTRAL  
5 INTELLIGENCE AS EXEMPT FROM SEARCH, REVIEW,  
6 PUBLICATION, OR DISCLOSURE

7 "SEC. 701. (a) In furtherance of the responsibility of the  
8 Director of Central Intelligence to protect intelligence  
9 sources and methods from unauthorized disclosure as set  
10 forth in section 102(d)(3) of this Act (50 U.S.C. 403(d)(3))  
11 and section 6 of the Central Intelligence Agency Act of 1949  
12 (50 U.S.C. 403g), operational files located in the Directorate  
13 of Operations, Directorate for Science and Technology, and  
14 Office of Security of the Central Intelligence Agency shall be  
15 exempted from the provisions of the Freedom of Information  
16 Act which require publication or disclosure, or search or  
17 review in connection therewith, if such files have been spe-  
18 cifically designated by the Director of Central Intelligence to  
19 be—

20 "(1) files of the Directorate of Operations which  
21 document foreign intelligence or counterintelligence op-  
22 erations or intelligence or security liaison arrangements  
23 or information exchanges with foreign governments or  
24 their intelligence or security services; or

1           “(2) files of the Directorate for Science and Tech-  
2           nology which document the means by which foreign in-  
3           telligence or counterintelligence is collected through  
4           scientific and technical systems; or

5           “(3) files of the Office of Security which document  
6           investigations conducted to determine the suitability of  
7           potential foreign intelligence or counterintelligence  
8           sources:

9   *Provided, however,* That nondesignated files which may con-  
10   tain information derived or disseminated from designated  
11   operational files shall be subject to search and review. The  
12   inclusion of information from operational files in nondesignat-  
13   ed files shall not affect the designation of the originating  
14   operational files as exempt from search, review, publication,  
15   or disclosure: *Provided further,* That the designation of any  
16   operational files shall not prevent the search and review of  
17   such files for information concerning any special activity the  
18   existence of which is not exempt from disclosure under the  
19   provisions of the Freedom of Information Act or for informa-  
20   tion reviewed and relied upon in an investigation by the intel-  
21   ligence committees of the Congress, the Intelligence Over-  
22   sight Board, the Office of General Counsel of the Central  
23   Intelligence Agency, the Office of Inspector General of the  
24   Central Intelligence Agency, or the Office of the Director of  
25   Central Intelligence for any impropriety, or violation of law,

1 Executive order, or Presidential directive in the conduct of  
2 an intelligence activity.

3 “(b) The provisions of this section shall not be supersed-  
4 ed except by a provision of law which is enacted after the  
5 date of enactment of this section and which specifically cites  
6 and repeals or modifies its provisions.

7 “(c) Notwithstanding subsection (a) of this section,  
8 proper requests by United States citizens, or by aliens law-  
9 fully admitted for permanent residence in the United States,  
10 for information concerning themselves, made pursuant to the  
11 Privacy Act of 1974 (5 U.S.C. 552a) or the Freedom of In-  
12 formation Act (5 U.S.C. 552), shall be processed in accord-  
13 ance with those Acts.

14 “(d) The Director of Central Intelligence shall promul-  
15 gate regulations to implement this section.

16 “(1) Such regulations shall require the appropriate  
17 Deputy Directors or Office Head to—

18 “(A) specifically identify categories of files under  
19 their control which they recommend for designation;

20 “(B) explain the basis for their recommendations;  
21 and

22 “(C) set forth procedures consistent with the stat-  
23 utory criteria in subsection (a) which would govern the  
24 inclusion of documents in designated files.

1 Recommended designations, portions of which may be classi-  
2 fied, shall become effective upon written approval of the  
3 Director of Central Intelligence.

4       “(2) Such regulations shall further provide procedures  
5 and criteria for the review of each designation not less than  
6 once every ten years to determine whether such designation  
7 may be removed from any category of files or any portion  
8 thereof. Such criteria shall include consideration of the his-  
9 torical value or other public interest in the subject matter of  
10 the particular category of files or portion thereof and the po-  
11 tential for declassifying a significant part of the information  
12 contained therein.

13       “(e)(1) On the complaint under section 552(a)(4)(B) of  
14 title 5, United States Code, that the Agency has improperly  
15 withheld records because of improper designation of files or  
16 improper placement of records solely in designated files, the  
17 review of the district court, notwithstanding any other provi-  
18 sion of law shall be limited to a determination whether the  
19 Agency regulations implementing subsection (a) conform to  
20 the statutory criteria set forth in that subsection for designat-  
21 ing files unless the complaint is supported by an affidavit,  
22 based on personal knowledge or otherwise admissible evi-  
23 dence, which makes a prima facie showing that—

24       “(A) a specific file containing the records re-  
25       requested was improperly designated; or



1           “(B) the records requested were improperly placed  
2           solely in designated files.

3   If the court finds a prima facie showing has been made under  
4   this subsection, it shall order the Agency to file a sworn re-  
5   sponse, which may be filed in camera and ex parte, and the  
6   court shall make its determination based upon these submis-  
7   sions and submissions by the plaintiff. If the court finds under  
8   this subsection that the regulations of the Agency implement-  
9   ing subsection (a) of this section do not conform to the statu-  
10   tory criteria set forth in that subsection for designating files,  
11   or finds that the Agency has improperly designated a file or  
12   improperly placed records solely in designated files, the court  
13   shall order the Agency to search the particular designated  
14   file for the requested records in accordance with the provi-  
15   sions of the Freedom of Information Act and to review such  
16   records under the exemptions pursuant to section 552(b) of  
17   title 5, United States Code. If at any time during such pro-  
18   ceedings the Agency agrees to search designated files for the  
19   requested records, the court shall dismiss the cause of action  
20   based on this subsection.

21           “(2) On complaint under section 552(a)(4)(B) of title 5,  
22   United States Code, that the Agency has improperly with-  
23   held records because of failure to comply with the regulations  
24   adopted pursuant to subsection (d)(2), the review of the court

1 shall be limited to determining whether the Agency consid-  
2 ered the criteria set forth in such regulations.”.

3 (b) The table of contents at the beginning of such Act is  
4 amended by adding at the end thereof the following:

“TITLE VII—RELEASE OF REQUESTED INFORMATION TO THE  
PUBLIC BY THE CENTRAL INTELLIGENCE AGENCY

“Sec. 701. Designation of files by the Director of Central Intelligence as exempt  
from search, review, publication, or disclosure.”.

5 SEC. 4. The amendments made by section 3 shall be  
6 effective upon enactment of this Act and shall apply with  
7 respect to any request for records, whether or not such re-  
8 quest was made prior to such enactment, and shall apply to  
9 all cases and proceedings pending before a court of the  
10 United States on the date of such enactment.

Passed the Senate November 17 (legislative day,  
November 14), 1983.

Attest: WILLIAM F. HILDENBRAND,  
*Secretary.*